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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/475,534	12/30/1999	ROSS G. KAMINSKY	99.853	6464

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EXAMINER

RUDY, ANDREW J

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 09/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/475,534

Applicant(s)

KAMINSKY ET AL.

Examiner

Andrew Joseph Rudy

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 & 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-28 and 31-37 is/are pending in the application.
- 4a) Of the above claim(s) 31-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. Claims 8-28 and 31-37 are pending. Applicant's cancelled claims 1-7, 29 and 30.
2. Newly submitted claims 31-37 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The new claims constitute a different species.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 31-37 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

3. Claims 8-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant from claim 8, lines 5 and 8-9, recites a “risk threshold” a “risk level” and an “aggregate risk level” but does not clearly define what these terms mean from the descriptive portion of the specification in juxtaposition with the drawings. Applicant briefly comments on the latter two in the “SUMMARY OF INVENTION” but does not refer to these exact terms again in the body of the specification. The dependent claims recite further claim limitations narrowing the scope of these terms, e.g. claims 9-11, but the descriptive portion of the specification and drawings are not consistent with these, and other claim recitations. Thus, it is not clear what the meaning of these terms constitute. Subsequently, the metes and bounds of Applicant’s invention are not clear.

Claim Rejections - 35 USC § 103

4. Claims 8-28, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Broka et al., US 5,809,483 in view of Mandler et al., US 5,732,400.

Broka discloses in Figs. 21(a) & 21(b) modify quote window 2100 used in an on-line computerized trading system to record trades and quotes within a time duration. Quotes inherently comprise a risk level that underpin the criteria data used in creating a quote price used in a trading system.

Mandler discloses an on-line computerized trading system to match trades and quotes incorporating a level of risk assessment via a financial clearing house 40 within a time duration. Mandler's risk assessment is deemed automatic. It is noted that Applicant's automatic modification of the changed quote may be done manually, as no computer is required to carry out any modifications.

To have provided the trading system of Broka to include a level of risk assessment in a computer would have been obvious to one of ordinary skill in the art in view of Mandler. Doing such would incorporate well known business rules criteria to assess whether a trade is to be executed or not when a quote has been generated depending upon the data available. Regarding Applicant's risk level, aggregate risk level, delta value, beta value, net delta, net contract volume, contract quantity, positive and negative risk, put series options, regeneration increment, etc. and match each with unmatched trades are all common knowledge terms and applications used within the financial investment community. To incorporate these features into the invention of Broka, as modified by Mandler, would have been obvious to one of ordinary skill in the art. Doing such would use common knowledge financial risk and trade analysis information used in business decisions.

Applicant's REMARKS have been reviewed, but are not convincing. Data comprising trading parameters, risk levels, and comparing aggregate risk levels to other factors, e.g. a risk threshold, and then altering a quote in response to the new are common knowledge criteria used within the financial portfolio industry. To have provided this type of data with the risk assessment of Broka, as modified by Mandler, would have been obvious to one of ordinary skill in the art. Doing such would implement known risk assessment data to provide a modified quote system. A changed quote used in the financial trading industry is, generally, automatically executed in response to the changed data. To have provide such for Broka would have been obvious to one of ordinary skill in the art. Doing such would incorporate well known data in a changed quote system.

It is further noted that the storing of unmatched quotes/orders is common knowledge in the art, e.g. see from Applicant's IDS, Hartheimer et al., US 5,305,200. To have provided such for Broka, as modified by Mandler, would have been obvious to one of ordinary skill in the art. Doing such would provide a ready transaction history to further facilitate the trading process.

5. A further pertinent reference of interest: Basch et al., US 6,119,103 discloses a risk threshold financial system.

6. Applicant's Information Disclosure Statement has been reviewed. Noted attached PTO-1449.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 703-308-7808. The examiner can normally be reached on Tuesday thru Friday, 7:30 a.m until 6 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Robert Olszewski can be reached on (703) 308-5183. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

A handwritten signature in black ink, reading "Andrew Joseph Rudy". The signature is written in a cursive, flowing style with some capitalization.